

REMARKS:

REMARKS REGARDING CLAIMS AMENDMENTS:

The above noted amendments to the claims have been made so that the scope and language of the claims is more precise and clear in defining what the Applicants consider to be the invention. Specifically, the amendment to claim 21 has been made to clarify that the ledge extends substantially radially outwardly from the lower shell part to the upper shell part. Likewise, the amendment to claim 22 has been made to clarify that the ledge extends substantially radially outwardly from the lower shell portion to the upper shell portion.

Support for the above amendments to the claims can be found in the original specification as filed.

The claims and amended claims are submitted as being clearly distinct and patentable over the art of record and therefore their entry and allowance by the Examiner is requested.

IN RESPONSE TO THE OFFICE ACTION:**REJECTION UNDER 35 U.S.C. § 103:**

The Examiner has rejected claims 21, 22 and 27-42 as being unpatentable given U.S. Patent No. 5,480,184 to Young ("Young"). In response, Applicants requests that the Examiner reconsider and withdraw the rejection in view of the following.

A determination under 35 U.S.C. § 103 is whether the claimed invention as a whole would have been obvious to a person of ordinary skill in the art at the time the invention was made. *In re Mayne*, 104 F.3d 1339, 1341, 41 USPQ 2d 1451, 1453 (Fed. Cir. 1997). An obviousness determination is based on underlying factual inquiries including: (1) the scope and content of the prior art; (2) the level of ordinary skill in the art; (3) the differences between the claimed invention and the prior art; and (4) objective evidence of nonobviousness. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18, 148 USPQ 459, 467 (1966), see also *Robotic Vision Sys., Inc. v. View Eng'g Inc.*, 189 F.3d 1370, 1376, 51 USPQ 2d 1948, 1953 (Fed. Cir. 1999)

In line with this standard, case law provides that "the consistent criterion for determination of obviousness is whether the prior art would have suggested to one of ordinary skill in the art that this process should be carried out and would have a reasonable likelihood of success, viewed in the light of the prior art." *In re Dow Chem.*, 837 F.2d 469, 473, 5 USPQ 2d 1529, 1531 (Fed. Cir. 1988). The first requirement is that a showing of a suggestion, teaching, or motivation to combine the prior art references is an "essential evidentiary component of an obviousness holding." *C.R. Bard, Inc. v. M3 Sys. Inc.*, 157 F.3d 1340, 1352, 48 USPQ 2d 1225, 1232 (Fed. Cir. 1998). This showing must be clear and particular, and broad conclusory statements about the teaching of multiple references, standing alone, are not "evidence." *In re Dembiczak*, 175 F.3d 994, 1000, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999). The second requirement is that the ultimate determination of obviousness must be based on a reasonable expectation of success. *In re O'Farrell*, 853 F.2d 894, 903-904, 7 USPQ 2d 1673, 1681 (Fed. Cir. 1988); see also *In re Longi*, 759 F.2d 887, 897, 225 USPQ 645, 651-52 (Fed. Cir. 1985). The mere fact that the prior art may be modified in the manner suggested by the Examiner does not

make the modification obvious unless the prior art suggested the desirability of the modification. *In re Fritch*, 972 F.2d 1260, 1265, 23 USPQ 2d 1780, 1783–84 (Fed. Cir. 1992).

The examiner bears the burden of establishing a prima facie case of obviousness. *In re Deuel*, 51 F.3d 1552, 1557, 34 USPQ 2d 1210, 1214 (Fed. Cir. 1995). The burden to rebut a rejection of obviousness does not arise until a prima facie case has been established. *In re Rijckaert*, 9 F.3d 1531, 1532, 28 USPQ 2d 1955, 1957 (Fed. Cir. 1993). Only if the burden of establishing a prima facie case is met does the burden of coming forward with rebuttal argument or evidence shift to the applicant. *In re Deuel*, 51 F.3d 1552, 1553, 34 USPQ 2d 1210, 1214 (Fed. Cir. 1995), see also *Ex parte Obukowicz*, 27 USPQ 2d 1063, 1065 (B.P.A.I. 1992).

Referring to Young, Young was previously discussed in Applicants' Reply of September 30, 2002 those arguments are incorporated herein. As previously discussed, Young discloses an inflatable occupant restraint device that includes a dual reusable airbag system with one airbag adjacent to the other. One airbag 10 is inflated prior to installation; the other airbag 12 is inflated upon impact of the vehicle (Abstract; col. 2, lines 54-60). The steering assembly B is secured onto a steering shaft or column S by a nut N (col. 2, lines 61-62). The steering assembly B includes a cavity 20 in which a gas generator 18 and second airbag 12 are fixed to the base thereof, with the second airbag 12 folded over and around the gas generator 18 in the cavity 20 (col. 2, lines 62-65; Fig. 2). As is clearly illustrated from the cross sectional view of Figure 2 of the Young invention, however, the bowl-shaped element (not labeled in Young) of the steering wheel 24 is V-shaped, not stepped as illustrated in Applicant's claimed invention. While Young's bowl-shaped element has an upper end and a lower end, nowhere does the embodiment show a distinctive upper shell joined together by a ledge to a lower shell as disclosed in Applicant's claimed invention.

However, the Examiner has analogized various feature found in Young's Fig. 2 with Applicant's claimed invention. Specifically, the Examiner has referred to an upper shell part (24 in Fig. 2) and a lower shell part (see area near 19 in Fig. 2) found in Fig. 2 of Young, which is connected by a "ledge" (inwardly protruding area above 20). See Office Action page 2-3. The

Examiner further notes that this inwardly projecting ledge “extends substantially in a radial direction relative to the longitudinal axis.” *See* Office Action page 2-3.

Applicants submit that as positively recited in amended claims 21 and 22, Applicants’ ledge extends in an external, stepped fashion, specifically extending “substantially radially outwardly from the lower shell part [portion] to the upper shell part [portion].” This claimed feature clarifies that Applicants’ ledge extends externally, as opposed to Young’s inwardly extending “ledge.” Further, this feature of Applicants’ claimed invention allows for the steering wheel 1 to deform at the ledge 6 when a force is exerted in the event of a collision. *See* Applicants’ specification page 6, lines 22-23. Specifically the steering wheel 1 is deformed when the upper part 7 of the shell bends relative to the lower part 5 of the shell. *See* Applicants’ specification page 6, lines 22-25. This feature provides for effective energy absorption in the event that the driver in the vehicle is thrown forwards against the steering wheel 1. *See* Applicants’ specification page 6, lines 25-27.

Applicants submit that nowhere in the Young reference is there any disclosure, teaching or suggestion for the presently claimed invention. The area above reference numeral 20 extends inwardly from the lower shell part (see area near 19 in Fig. 2) to the upper shell part (24 in Fig. 2). This “ledge” in Young clearly does not extend “substantially radially *outwardly* from the lower shell part [portion] to the upper shell part [portion]” as claimed in Applicants’ claimed invention. Furthermore, Young does not disclose or suggest that the steering assembly B is capable of providing for energy absorption or even may be modified to provide such a feature. As disclosed in Young, the steering assembly would not deform at the ledge in such a manner as to provide the ancillary benefits that Applicants’ claimed invention so provides.

In short, to establish a *prima facie* case of obviousness, the prior art reference must teach or suggest all the claim limitations. As Young does not teach or suggest a ledge extending substantially radially outwardly from the lower shell part [portion] to the upper shell part [portion], Young cannot be said to make the present invention obvious.

Furthermore, claims 27-42 are dependent upon either independent claim 21 or 22. Under the provisions of 35 U.S.C. § 112, 4th paragraph, all of the limitations of the respective

independent claim are recited within these dependent claims. As such, the following arguments made in support of the patentability of claims 21 and 22 are applicable to the patentability of claims 27-42.

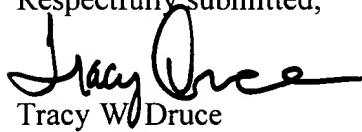
The Examiner also refers to *In re Ludtke* for the proposition that Applicants are required to prove that the subject matter shown (*i.e.*, the invention of Young) would not have the weight distribution and dimensioning as claimed. Because the functional language of claims 28, 29, 35 and 36 is not the *only* distinction between those claims and the Young reference in light of the amendments and arguments made above, *Ludtke* does not presently apply.

It is believed that the above amendments and remarks overcome the Examiner's rejection of claims 21, 22 and 27-42 as being unpatentable given Young. Withdrawal of the rejection of claims 21, 22 and 27-42 under 35 U.S.C. § 103(a) is respectfully requested.

The undersigned representative authorizes the Commissioner to charge any additional fees under 37 C.F.R. 1.16 or 1.17 that may be required, or credit any overpayment, to Deposit Account No. 08-3038, referencing Order No. 07574.0082.PCUS00.

In order to facilitate the resolution of any issues or questions presented by this paper, the Examiner should directly contact the undersigned by phone to further the discussion.

Respectfully submitted,



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